

## Business rule - GIFTS, BENEFITS AND HOSPITALITY

### Commission and employee policy

#### 1. Purpose

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This policy states the VEWH's position on:

- responding to offers of gifts, benefits and hospitality; and
- providing gifts, benefits and hospitality.

This policy is intended to support individuals and the VEWH to avoid conflicts of interest and maintain high levels of integrity and public trust.

The VEWH has issued this policy to support behavior consistent with the *Code of Conduct for Victorian Public Sector Employees*, and the *Code of Conduct for Directors of Victorian Public Entities* (the Code). All employees are required under clause 1.2 of the Code to comply with this policy.

#### 2. Application

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This policy is intended to support individuals and the VEWH to avoid conflicts of interest and maintain high levels of integrity and public trust. It applies to all Commissioners and employees (i.e. senior executives and other staff, including 'in house' contractors<sup>1</sup>, consultants and any individuals or groups undertaking activity for or on behalf of the VEWH).

#### 3. Policy principles

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This policy has been developed in accordance with requirements outlined in the minimum accountabilities for the management of gifts, benefits and hospitality issued by the Victorian Public Sector Commission.

The VEWH is committed to and will uphold the following principles in applying this policy:

**Impartiality** - individuals have a duty to place the public interest above their private interests when carrying out their official functions. They will not accept gifts, benefits or hospitality that could raise a reasonable perception of, or actual, bias or preferential treatment. Individuals do not accept offers from those about whom they are likely to make business decisions.

**Accountability** - individuals are accountable for:

- declaring all non-token offers of gifts, benefits and hospitality;
- declining non-token offers of gifts, benefits and hospitality, or where an exception applies under this policy, seeking approval to accept the offer; and
- the responsible provision of gifts, benefits and hospitality.

Individuals with direct reports are accountable for overseeing management of their direct reports' acceptance or refusal of non-token gifts, benefits and hospitality, modelling good practice and promoting awareness of gifts, benefits and hospitality policies and processes.

**Culture of integrity:** the VEWH fosters a culture of integrity. Individuals strive to earn and sustain public trust through providing or responding to offers of gifts, benefits and hospitality in a manner that is consistent with

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<sup>1</sup> Note the application of clause 1.4 of the Code of conduct for Victorian public sector employees to the engagement of contractors and consultants. Contractors and consultants are only bound by the code if explicitly required by their contract for services.

community expectations. Individuals will refuse any offer that may lead to an actual, perceived or potential conflict of interest. Commissioners and employees are supported to raise any unresolved gifts issues.

**Risk-based approach:** the VEWH through its policies, processes and Risk & Audit Committee (RAC), will ensure gifts, benefits and hospitality risks are appropriately assessed and managed. Individuals with direct reports will ensure they are aware of the risks inherent in their team's work and functions and monitor the risks to which their direct reports are exposed.

## 4. Minimum accountabilities

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Under the *Instructions supporting the Standing Directions of the Minister for Finance 2018*, the Victorian Public Sector Commission has set binding minimum accountabilities for the appropriate management of gifts, benefits and hospitality. These can be found at [Schedule A](#).

## 5. Definitions

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### Benefits

Benefits include preferential treatment, privileged access, favours or other advantage offered to an individual. They may include invitations to sporting, cultural or social events, access to discounts and loyalty programs and promises of a new job.

The value of benefits may be difficult to define in dollars, but as they are valued by the individual, they may be used to influence the individual's behaviour.

### Business associate

An individual or body that the public sector organisation has, or plans to establish, some form of business relationship with, or who may seek commercial or other advantage by offering gifts, benefits or hospitality.

### Ceremonial gifts

Ceremonial gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are usually provided when conducting business with official delegates or representatives from another organisation, community or foreign government.

Ceremonial gifts are the property of the public sector organisation, irrespective of value, and should be accepted by individuals on behalf of the public sector organisation. The receipt of ceremonial gifts should be recorded on the register but does not need to be published online.

### Conflict of interest

Conflicts may be:

**Actual:** There is a real conflict between an employee's public duties and private interests.

**Potential:** An employee has private interests that could conflict with their public duties. This refers to circumstances where it is foreseeable that a conflict may arise in future and steps should be taken now to mitigate that future risk.

**Perceived:** The public or a third party could reasonably form the view that an employee's private interests could improperly influence their decisions or actions, now or in the future.

### Gifts

Gifts are free or discounted items or services and any item or service that would generally be seen by the public as a gift. These include items of high value (e.g. artwork, jewellery, or expensive pens), low value (e.g. small bunch of flowers), consumables (e.g. chocolates) and services (e.g. painting and repairs). Fundraising by public sector organisations that is consistent with relevant legislation and any government policy is not prohibited under the minimum accountabilities.

## Hospitality

Hospitality is the friendly reception and entertainment of guests. Hospitality may range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel and accommodation.

## Legitimate business benefit

A gift, benefit or hospitality may have a legitimate business benefit if it furthers the conduct of official business or other legitimate goals of the public sector organisation, the public sector or the State.

## Public official

Public official has the same meaning as section 4 of the *Public Administration Act 2004* and includes, public sector employees, statutory office holders and directors of public entities.

## Public register

A public register is a record, preferably digital, of a subset of the information contained in a register, for publication as required by the minimum accountabilities. Guidance regarding the information that should be published is provided in the [Victorian Public Sector Commission Policy Guide](#).

## Register

A register is a record, preferably digital, of all declarable gifts, benefits and hospitality. Guidance regarding the information that should be recorded is provided in the Policy Guide.

## Responsible person

The 'responsible person' is the person whom the Commission or employee notifies of any gift offers they receive; notifies of suspected bribery attempts; and seeks advice from about this policy and how to comply.

	<b>Responsible Person</b>
<b>Employee</b>	Line manager
<b>Commissioner or CEO</b>	Chair
<b>Chair</b>	Deputy chair Where appropriate, the chair should also seek advice from the Minister and/or DELWP.

## Token offer

A token offer is a gift, benefit or hospitality that is of inconsequential or trivial value to both the person making the offer and the recipient (such as basic courtesy). The minimum accountabilities state that token offers cannot be worth more than \$50.

## Non-token offer

A non-token offer is a gift, benefit or hospitality that is, or may be perceived to be by the recipient, the person making the offer or by the wider community, of more than inconsequential value. All offers worth more than \$50 are non-token offers and must be recorded on a gift, benefit and hospitality register.

## 6. Management of offers of gifts, benefits and hospitality

This section sets out the process for accepting, declining and recording offers of gifts, benefits and hospitality. Any exceptions to this process must have the prior written approval of the relevant organisational delegate.

### 6.1 Conflict of interest and reputational risks

When deciding whether to accept an offer, individuals should first consider if the offer could be perceived as influencing them in performing their duties or lead to reputational damage. The more valuable the offer, the more likely that a conflict of interest or reputational risk exists.

**Figure 1. GIFT test**

This table is a useful tool when considering how to respond to a gift offer.

<b>G</b>	Giver	<p><b>Who is providing the gift, benefit or hospitality and what is their relationship to me?</b></p> <p>Does my role require me to select suppliers, award grants, regulate industries or determine government policies? Could the person or organisation benefit from a decision I make?</p>
<b>I</b>	Influence	<p><b>Are they seeking to gain an advantage or influence my decisions or actions?</b></p> <p>Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy or a token of appreciation or a valuable non-token offer? Does its timing coincide with a decision I am about to make?</p>
<b>F</b>	Favour	<p><b>Are they seeking a favour in return for the gift, benefit or hospitality?</b></p> <p>Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers over the last 12 months? Would accepting it create an obligation to return a favour?</p>
<b>T</b>	Trust	<p><b>Would accepting the gift, benefit or hospitality diminish public trust?</b></p> <p>How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family, friends or associates think?</p>

To assist employees and the Commission, a flowchart of how to respond to gift offers is set out in **Appendix 4**.

### 6.2 Requirement for refusing offers

Individuals should consider the GIFT test at Figure 1 and the requirements below to help decide whether to refuse an offer. Individuals are to refuse offers:

- likely to influence them, or be perceived to influence them, in the course of their duties or that raise an actual, potential or perceived conflict of interest;
- could bring them, the VEWH or the public sector into disrepute;
- made by a person or organisation about which they will likely make or influence a decision (this also applies to processes involving grants, sponsorship, regulation, enforcement or licensing), particularly offers:
  - made by a current or prospective supplier;
  - made during a procurement or tender process by a person or organisation involved in the process;
- likely to be a bribe or inducement to make a decision or act in a particular way;
- that extend to their relatives or friends;
- of money, or used in a similar way to money, or something easily converted to money (e.g. gift cards);
- where, in relation to hospitality and events, the organisation will already be sufficiently represented to meet its business needs;
- where acceptance could be perceived as endorsement of a product or service, or acceptance would unfairly advantage the sponsor in future procurement decisions;

- made by a person or organisation with a primary purpose to lobby Ministers, Members of Parliament or public sector organisations;
- is inconsistent with community expectations; or
- made in secret.

If an individual considers they have been offered a bribe or inducement, the offer must be reported to the responsible person or their delegate (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission).

### 6.3 Token offers

A token offer is an offer of a gift, benefit or hospitality that is of inconsequential or trivial value to both the person making the offer and the individual. It may include promotional items such as pens and note pads, and modest hospitality that would be considered a basic courtesy, such as light refreshments during a meeting.

The minimum accountabilities state that token offers cannot be worth more than \$50.

Individuals may generally accept token offers without approval or declaring the offer on the VEWH's register, as long as the offer does not create a conflict of interest or lead to reputational damage (e.g. a token gift for giving a presentation at a seminar or conference). In alignment with Victorian water industry practices, individuals must not accept hampers, or other gifts, from consultants.

Regardless of whether a token gift offer is accepted, it must be disclosed as soon as practicable to the responsible person. The Commissioner or employee who receives the offer must send an email to the responsible person that sets out:

- the date of the offer;
- the source (organisation or individual) of the offer;
- what was offered and why;
- that it was a token offer, including an estimate of:
  - the value of the gift offered; and
  - the combined value of all gifts offered to them from that source in the last 12 months;
- whether it was a prohibited gift and, if so, why; and
- whether the offer was accepted or refused.

For token offers, a gifts declaration form does not need to be completed and it does not need to be entered in the gifts register.

#### Example – acceptance of token gift

'On 16 July 2017, I received a gift offer from Berringer and Co. of a bottle of wine. It was offered to me as a thank you for presenting at their annual education forum, which I did as part of my official duties. I estimate the value of the bottle of wine to be \$30. I estimate the combined total of gift offers I have received from this source in the last 12 months to be \$45. I consider this to be a token gift offer. It was not a prohibited gift offer. I accepted the offer.'

#### Example – refusal of token gift

'On 13 December 2017, I received a gift offer from Murks and Co. of a desk calendar. It was offered as 'a Christmas good will gift'. I estimate the value of the desk calendar to be \$20. I estimate the combined total of gift offers I have received from this source in the last 12 months to be \$45. It was a prohibited gift as it is a conflict of interest - Murks is a prospective tenderer about whom I am likely to make or can influence a decision. I refused the offer and explained why to the rep.'

The Commissioner or employee disclosing the token gift offer and the responsible person must each retain a copy of the email and provide a copy to the Project Officer, Business Management. An email record:

- assists the Commission/employee to fulfil their responsibility to keep track of whether offers made to them by that source exceed a combined value of \$50 in the last 12 months (i.e. the reportable threshold); and
- assists the responsible person to monitor the risks inherent in their team's work and functions.<sup>2</sup>

<sup>2</sup> A responsible person may decide to maintain a spreadsheet with an overview of token gift offers disclosed to them by email. This will assist in monitoring risks and compliance with this policy.

## 6.4 Non-token offers

Individuals can only accept non-token offers if they have a legitimate business benefit. All non-token offers whether accepted or not must be approved in writing by the individual's manager or organisational delegate, recorded in the gifts, benefits and hospitality register and be consistent with the following requirements:

- it does not raise an actual, potential or perceived conflict of interest or have the potential to bring the individual, the VEWH or the public sector into disrepute; and
- there is a legitimate business reason for acceptance. It is offered in the course of the individual's official duties, relates to the individual's responsibilities and has a benefit to the VEWH, public sector or the State.

Individuals may be offered a gift or hospitality where there is no opportunity to seek written approval from their manager prior to accepting. For example, they may be offered a wrapped gift that they later identify as being a non-token gift. In these cases, the individual must seek approval from their manager within five business days.

Where the gift would likely bring you or the organisation into disrepute, the organisation should return the gift. If it represents a conflict of interest for you, the organisation should either return the gift or transfer ownership to the organisation to mitigate this risk.

## 6.5 Recording non-token offers of gifts, benefits and hospitality

All non-token offers, whether accepted or declined, must be reported by the recipient within 14 calendar days and must be recorded in the VEWH's gifts, benefits and hospitality register. The business reason for accepting the non-token offer must be recorded in the register with sufficient details to link the acceptance to individual's work functions and benefits to the VEWH, public sector or State.

Individuals should consider the following examples of acceptable and unacceptable levels of detail to be included in the VEWH's register when recording the business reason:

### Unacceptable

- "Networking"
- "Maintaining stakeholder relationships"

### Acceptable

- "Individual is responsible for evaluating and reporting on the outcomes of the VEWH's sponsorship of Event A. Individual attended Event A in an official capacity and reported back to the VEWH on the event."
- "Individual presented to a visiting international delegation. The delegation presented the individual with a cultural item worth an estimated \$200. Declining the gift would have caused offence. The gift was accepted on behalf of the VEWH."

A Commissioner or employee who is offered a **non-token** gift (must, **regardless of whether the gift is accepted**):

- verbally disclose the offer to the responsible person as soon as practicable; and
- within five working days of the offer, sign and lodge a properly completed gift offer declaration form (**Appendix 1**).

Access to the register is restricted to the Governance team within the VEWH.

The VEWH's Risk and Audit Committee (RAC) will receive a report at least annually on the administration and quality control of the gifts, benefits and hospitality policy, processes and register. The report will include analysis of VEWH's gifts, benefits and hospitality risks (including multiple offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements. The report format is provided in **Appendix 3**.

The public register will contain a subset of the information detailed in the VEWH's internal register.

The gift offer declaration form is set out in **Appendix 1** of this policy.

A Register of responses to reportable gift offers ('gifts register') must be maintained that includes a record of:

- all **reportable** gift offers and responses (based on completed gift offer declaration forms); and
- if the gift offer was accepted, how the gift will be used or disposed of by the VEWH.

In addition:

## Employees

The CEO must ensure that employees are provided with regular reminders of the need to lodge gift offer declaration forms (refer to **Appendix 1**).

## Commission

At the start of each Commission meeting, the chair must ask all Commissioners present to state whether their entries in the gifts register are complete and correct. If there are no changes, the minutes will note that:

*'All Commissioners present confirmed that their entries in the Register of responses to reportable gift offers are complete and correct'.*

If changes are declared, these will be noted in the minutes, together with the Commission's undertaking to lodge a gift offer declaration form within five working days.

A copy of the gifts register that complies with privacy obligations (refer to next item) must be published on the VEWH's external website. It should be updated at least every six months. Entries should remain on the website for at least the current and previous financial year.<sup>3</sup>

## Privacy protection

The CEO must have processes in place to ensure that the VEWH complies with the *Privacy and Data Protection Act 2014* when collecting, using, and disclosing personal information in relation to gift offers (token and reportable).

This includes ensuring that:

- identifying information is deleted from the copy of the gifts register that is published on the VEWH's external website, and
- a *Privacy collection statement - gift offers* is published on the website that is consistent with the [template statement](#) issued by DELWP. Refer to **Appendix 2** for the VEWH's *Privacy collection statement - gift offers*.

### 6.6 Ownership of gifts offered to individuals

A Commissioner or employee who accepts a non-token gift does so **on behalf of the VEWH**. The VEWH is the owner of the gift.

Non-token gifts with a legitimate business benefit that have been accepted by an individual for their work or contribution may be retained by the individual where the gift is not likely to bring them or the VEWH into disrepute, and where their manager or organisational delegate has provided written approval. Employees must transfer to the VEWH official gifts or any gift of cultural significance or significant value

### 6.7 Repeat offers

Receiving multiple offers (token or non-token) from the same person or organisation can generate a stronger perception that the person or organisation could influence you. Individuals should refuse repeat offers from the same source if they create a conflict of interest or may lead to reputational damage.

### 6.8 Ceremonial gifts

Ceremonial gifts are official gifts provided as part of the culture and practices of communities and government, within Australia or internationally. Ceremonial gifts are the property of the organisation, irrespective of value, and should be accepted by individuals on behalf of the VEWH. The receipt of ceremonial gifts should be recorded on the VEWH's register but this information does not need to be published online.

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<sup>3</sup> To assist readers, the 'de-identified' copy of the gifts register should be located with the privacy collection statement and copy of this policy and guidance for external stakeholders on the website.



## 6.9 'Public interest' approval for use of gift by Commission or employee

Occasionally, it will be in the **public interest** for approval to be given for a Commissioner or employee to use a non-token gift 'as their own' at the behest of the VEWH.

Applications for 'public interest approval' will be determined by the Commission (for the Commission and the CEO) or the CEO (for employees) in accordance with the following criteria:

- approval is required to avoid the person being in breach of this policy through no fault of their own;
- prior written approval has been granted, for sponsored hospitality to be accepted in relation to a conference or familiarisation tour.

The reason(s) for any public interest approval that is granted must be well documented, attached to the gift offer declaration form, and recorded in the gifts register.

## 6.10 Gifts of cultural, historic or other significance

Consideration should be given to donating gifts of cultural, historic or other significance to an appropriate public institution, such as the Melbourne Museum, State Library, or National Gallery of Victoria.

## 6.11 Donating other reportable gifts

Consideration should be given to donating other non-token gifts, or the proceeds of their sale, to a non-profit organisation or public institution.

## 6.12 Hospitality provided by Victorian public sector organisations

Victorian public sector organisations may provide hospitality to stakeholders, as part of their functions. When offered hospitality by a Victorian public sector organisation, individuals should consider the requirements of the minimum accountabilities.

Accepted hospitality offered by a Victorian public sector organisation as part of official business does not need to be declared or reported, where the reason for the individual's attendance is consistent with the VEWH's functions and objectives and with the individual's role.

The VEWH does not have a separate register for official business events. If it is not clear whether attendance at an event is part of normal business activity, the invitation should be treated as a gift offer and the process outlined in section 6 is to be followed (regardless of whether the invitation is accepted).



## 7. Management of the provision of gifts, benefits and hospitality

This section sets out the requirements for providing gifts, benefits and hospitality.

Figure 2. HOST test

<b>H</b>	Hospitality	<b>To whom is the gift or hospitality being provided?</b> Will recipients be external business associates, or individuals of the host organisation?
<b>O</b>	Objectives	<b>For what purpose will hospitality be provided?</b> Is the hospitality being provided to further the conduct of official business? Will it promote and support government policy objectives and priorities? Will it contribute to staff wellbeing and workplace satisfaction?
<b>S</b>	Spend	<b>Will public funds be spent?</b> What type of hospitality will be provided? Will it be modest or expensive, and will alcohol be provided as a courtesy or an indulgence? Will the costs incurred be proportionate to the benefits obtained?
<b>T</b>	Trust	<b>Will public trust be enhanced or diminished?</b> Could you publicly explain the rationale for providing the gift or hospitality? Will the event be conducted in a manner which upholds the reputation of the public sector? Have records in relation to the gift or hospitality been kept in accordance with reporting and recording procedures?

### 7.1 Requirements for providing gifts, benefits and hospitality

Gifts, benefits and hospitality may be provided when welcoming guests, to facilitate the development of business relationships, further public sector business outcomes and to celebrate achievements.

When deciding whether to provide gifts, benefits or hospitality or the type of gift, benefit or hospitality to provide, individuals must ensure:

- any gift, benefit or hospitality is provided for a business reason that furthers the conduct of official business or other legitimate organisational goals, or promotes and supports government policy objectives and priorities;
- that any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations (the 'HOST' test at Figure 2 is a good reminder of what to think about in making this assessment); and
- it does not raise an actual, potential or perceived conflict of interest.

### 7.2 Containing costs

Individuals should contain costs involved with providing gifts, benefits and hospitality wherever possible, and should comply with the financial probity and efficient use of resources guidance outlined in the *Code of Conduct for Victorian Public Sector Employees*, and the *Code of Conduct for Directors of Public Entities*. The following questions may be useful to assist individuals to decide on the type of gift, benefit or hospitality to provide:

- Will the cost of providing the gift, benefit or hospitality be proportionate to the potential benefits?
- Is an external venue necessary or does the organisation have facilities to host the event?

- Is the proposed catering or hospitality proportionate to the number of attendees?
- Does the size of the event and number of attendees align with intended outcomes?
- Is the gift symbolic, rather than financial, in value?
- Will providing the gift, benefit or hospitality be viewed by the public as excessive?

### 7.3 Providing catering for external events

Catering is provided at functions for external guests subject to the following criteria:

- there is a real benefit to the department,
- the expenditure is modest and proportionate to the benefit,
- it is not excessive,
- it is not too frequent, and
- it is consistent with community expectations.

The VEWH does not provide alcohol for external events.

### 7.4 Providing catering at internal events

VEWH provides modest catering for employees for events such as annual recognition events or marking the completion of a major project based on the following considerations:

- the extent to which the event will contribute to organisational objectives by, for example, reinforcing particular values or motivating staff,
- whether there have been multiple recent events that would result in perceptions of excess, or
- the need to balance the positive benefits of public recognition with community expectations in relation to modest expenditure by public officials.

Celebrations of events such as birthdays, marriages or the birth of a child are not catered with public funds.

VEWH practice for recognition events is that the business unit funds a modest meal and soft drinks. Staff purchase alcohol if they choose.

VEWH practice is that meetings are scheduled to avoid conflict with meal times. Where that is not possible, a break is encouraged to enable participants to seek their own refreshments. If an event or meeting extends over meal times, modest hospitality can be provided.

As a guideline, provide refreshments when meetings exceed these times:

- 2 hours - for morning or afternoon tea
- 3 hours - for lunch
- 5 hours - for lunch and either morning or afternoon tea
- 7 hours - for lunch, morning tea and afternoon tea.

### 7.5 Provision of gifts

The VEWH does not provide gifts to employees as part of Reward & Recognition or farewell.

Flowers can be purchased from public funds in the event of the death of an employee or close family member. Should work colleagues choose to recognise life events such as the birth of a child flowers and gifts are funded through staff collections.

## 8. Related policy, legislation and other documents

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- The establishing Act, being *the amendment to the Water Act 1989* July 2010;
- Minimum accountabilities for the management of gifts, benefits and hospitality (see *Instructions supporting the Standing Directions of the Minister for Finance 2018*)
- DELWP's Conflict of Interest Policy
- VEWH's Fraud and Corruption business rule
- [Public Administration Act 2004<sup>4</sup>](#)
- [Code of Conduct for Victorian Public Sector Employees](#)
- [Code of Conduct for Victorian Public Sector Employees of Special Bodies](#)
- [Code of Conduct for Directors of Victorian Public Entities](#)
- [Victorian Public Sector Commission's Gifts, Benefits and Hospitality Policy Guide](#)

## 9. Authorising Officer and organisational delegate

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This policy is issued under the authority of the Commission and is subject to annual review.  
The organisational delegate is the CEO.

## 10. Breaches

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Disciplinary action consistent with the relevant industrial instrument and legislation, including dismissal, may be taken where an individual fails to adhere to this policy. This includes where an individual fails to avoid wherever possible or identify, declare and manage a conflict of interest related to gifts, benefits and hospitality in accordance with the DELWP's Conflict of Interest Policy.

Actions inconsistent with this policy may constitute misconduct under the *Public Administration Act 2004*, which includes:

- breaches of the binding *Code of Conduct for Victorian Public Sector Employees*, and the *Code of Conduct for Directors of Public Entities*, such as sections of the Code covering conflict of interest, public trust and gifts and benefits; and
- individuals making improper use of their position.

For further information on managing breaches of this policy, please contact the Project Officer, Business Management.

The VEWH will communicate its policy on the offering and provision of gifts, benefits and hospitality to contractors, consultants and other business associates. Those identified as acting inconsistently with this policy may be subject to contract re-negotiation, including termination.

## 11. Speak up

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Individuals who consider that gifts, benefits and hospitality or conflict of interest within the VEWH may not have been declared or is not being appropriately managed should speak up and notify their manager or Commission Chairperson. Individuals who believe they have observed corrupt conduct in their colleagues may also make a protected disclosure<sup>5</sup> directly to the Independent Based-based Anti-corruption Commission (IBAC).

The VEWH will take decisive action, including possible disciplinary action, against individuals who discriminate against or victimise those who speak up in good faith.

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<sup>4</sup> In particular:

- s 7: public sector values (i.e. integrity, impartiality, accountability, respect, responsiveness, human rights, leadership);
- s 79: 'duties of directors' (Commission);
- s 13A: requirement to provide information to the Secretary of DELWP;
- s 81(1)(b): duty to inform the minister and the Secretary of DELWP of major risks to VEWH;
- s 81(1)(g): requirement to have an adequate gifts policy in place for Commission.

## 12. Contacts for further information

A conflict of interest resulting from the acceptance of a gift, benefit or hospitality is not always clear to those who have them. Individuals who are unsure about accepting a gift, benefit or hospitality, or the application of this policy, should ask their manager, the Project Officer, Business Management. or Commission Chair for advice.

## 13. Regular review of this policy

The Commission will review this policy on an annual basis or more frequently, if required, to keep up-to-date with changes to laws, government policy, etc. This policy should be consistent with the most recent version of the DELWP model policy.

Version Number	Author	Revision Date	Description of Change
1.0	Beth Ashworth	19 April 2012	Initial
1.1	Beth Ashworth	9 July 2014	Update
1.2	Courtney Johnson	25 August 2014	Aligned to DEPI gifts, benefits and hospitality model policy; added definitions and sections for gift ownership, accepting travel and hospitality, providing gifts and role of the EO; significant gift now includes cumulative value of nominal gift above \$100; explicitly states that ownership of nominal gift resides with the recipient; ownership of significant resides with the organisation but can be transferred with approval of the Chairperson.
1.3	Jenny Knox	6 December 2017	Adoption of DELWP model policy. Amended cumulative value of token gift offers of \$50. Disclosure of token gift offers by email to the responsible person, whether accepted or not. Recording reportable gift offers in a secure register and publishing a copy of the gift register (observing privacy obligations) on VEWH's website. Publishing VEWH's policy on the website. Declaration from Commissioners at each meeting, annual report from EO to RAC, and RAC to the Commission and tighter definition of what a gift offer is.
1.4	Jenny Knox	3 July 2018	Draft DELWP model policy. This revision was in development and was not finalised.
2.0	Dez Daswani	3 September 2019	Combination of versions 1.3, 1.4 and adoption of DELWP's updated model policy removing any duplications. Added: <ul style="list-style-type: none"> <li>• Section 7 - provision of gifts, benefits &amp; hospitality</li> <li>• Updated position titles</li> <li>• Privacy collection statement- <b>Appendix 2</b></li> </ul>

Approved by the VEWH Commission:

Version number	Meeting number	Date
1.0	14	19 June 2019
1.1	17	18 July 2014
1.2	35	3 September 2014
1.3	62	13 December 2017
2.0	Out of Session	26 September 2019

## Schedule A: Minimum accountabilities

### Public officials offered gifts, benefits and hospitality:

1. Do not, for themselves or others, seek or solicit gifts, benefits and hospitality.
2. Refuse all offers of gifts, benefits and hospitality that:
  - are money, items used in a similar way to money, or items easily converted to money;
  - give rise to an actual, potential or perceived conflict of interest;
  - may adversely affect their standing as a public official or which may bring their public sector employer or the public sector into disrepute; or
  - are non-token offers without a legitimate business benefit.
3. Declare all non-token offers (valued at \$50 or more) of gifts, benefits and hospitality (whether accepted or declined) on their organisation's register, and seek written approval from their manager or organisational delegate to accept any non-token offer.
4. Refuse bribes or inducements and report inducements and bribery attempts to the head of the public sector organisation or their delegate (who should report any criminal or corrupt conduct to Victoria Police or the Independent Broad-based Anti-corruption Commission).

### Public officials providing gifts, benefits and hospitality:

5. Ensure that any gift, benefit and hospitality is provided for a business purpose in that it furthers the conduct of official business or other legitimate organisational goals, or promotes and supports government policy objectives and priorities.
6. Ensure that any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations.
7. Ensure that when hospitality is provided, individuals demonstrate professionalism in their conduct, and uphold their obligation to extend a duty of care to other participants.

### Heads of public sector organisations:

8. Establish, implement and review organisational policies and processes for the effective management of gifts, benefits and hospitality that comprehensively address these minimum accountabilities.
9. Establish and maintain a register for gifts, benefits and hospitality offered to public officials that, at a minimum, records sufficient information to effectively monitor, assess and report on these minimum accountabilities.
10. Communicate and make clear within the organisation that a breach of the gifts, benefits and hospitality policies or processes may constitute a breach of binding codes of conduct and may constitute criminal or corrupt conduct, and may result in disciplinary action.
11. Establish and communicate a clear policy position to business associates on the offering of gifts, benefits and hospitality to employees, including possible consequences for a business associate acting contrary to the organisation's policy position. This must take into consideration any whole of Victorian Government supplier codes of conduct.
12. Report at least annually to the organisation's audit committee on the administration and quality control of its gifts, benefits and hospitality policy, processes and register. This report must include analysis of the organisation's gifts, benefits and hospitality risks (including repeat offers from the same source and offers from business associates), risk mitigation measures and any proposed improvements.
13. Publish the organisation's gifts, benefits and hospitality policy and register on the organisation's public website (applies only to organisations with an established website). The published register should cover the current and the previous financial year.

## Appendix 1 – Gift offer declaration form

*We have an obligation to protect public confidence in the integrity of our decision-making by minimising offers of gifts.*

### Instructions

To be completed by the recipient of the reportable gift, benefit or hospitality offer within 14 days of the offer being made and sent to [dez.daswani@vewh.vic.gov.au](mailto:dez.daswani@vewh.vic.gov.au).

**Important note** – fields shaded in:

- light grey will be published on the agency’s public register on our website.
- dark grey will only be published on the public register if you accept the gift, benefit or hospitality.

You to complete	
Your name	[your name]
Your position (e.g. Policy Officer)	[your position]
Your team (e.g. Governance)	[your unit or division]
Details of the gift, benefit or hospitality	
Date offered	[date offered]
Description of the gift, benefit or hospitality	[description of the gift, benefit or hospitality]
Estimated or actual value	[estimated or actual value]
Name of the person making the offer	[name of the person making the offer]
Position or title of the person making the offer	[position or title of the person making the offer]
Name of the organisation making the offer	[name of the organisation making the offer]
Type of organisation (e.g. conference organiser, government agency, consulting firm)	[type of organisation]
Why is the offer being made?	[reason for the offer being made]
Is the person or organisation making the offer a business associate of the agency? <b>If yes</b> , describe the relationship between them and the organisation. <b>If no</b> , describe the relationship between you and the person or organisation making the offer (e.g. friendship).	Select yes or no from this list.
	[relationship between the department and offeror]
	[relationship between you and the offeror]
Would accepting the offer create an actual, potential or perceived <b>conflict of interest</b> ? <b>If yes</b> , then the offer must be declined.	Select yes or no from this list.
Would accepting the offer bring you, the agency or the public sector into disrepute? <b>If yes</b> , then the offer must be declined.	Select yes or no from this list.

<p>Is there a legitimate business benefit to the department or public sector for accepting the offer?</p> <p><i>For example:</i></p> <ul style="list-style-type: none"> <li>• Was it offered during your official duties?</li> <li>• Does it relate to your official responsibilities?</li> <li>• Does accepting bring any benefit to the agency, public sector or State?</li> </ul> <p><b>If no</b>, then the offer must be declined. <b>If yes</b>, then the business benefit must be detailed.</p>	<p>Select yes or no from this list.</p> <p>[details of the legitimate business benefit]</p>
<p>Is the offer an official or ceremonial gift provided when conducting business with official delegates or representatives from another organisation, the community or another government?</p> <p><b>If yes</b>, please provide details.</p>	<p>Select yes or no from this list.</p> <p>[details of the official or ceremonial purpose]</p>
<p>Did I accept or decline the offer?</p> <p>I declare that the details above are accurate and complete.</p>	<p>Select accept or decline from this list.</p> <p>Signature:</p> <p>Date:</p>
<p><b>Your manager or organisational delegate to complete</b></p>	
<p>Your name</p>	<p>[reviewer's name]</p>
<p>Your position or title (e.g. Director)</p>	<p>[reviewer's position or title]</p>
<p>Your unit or division (e.g. Climate Change)</p>	<p>[reviewer's unit or division]</p>
<p>Your relationship to the declarant (e.g. line manager)</p>	<p>[reviewer's relationship to declarant]</p>
<p><b>Complete if the declarant declined the offer</b></p>	
<p>I have reviewed this declaration form and submitted it for inclusion on our Gifts, Benefits &amp; Hospitality Register.</p>	<p>Signature:</p> <p>Date:</p>
<p><b>Complete if the declarant accepted the offer</b></p>	
<p>What decision was made about the ownership and disposal of the gift? (e.g. was it kept by the declarant, transferred to the agency, returned, or donated to charity)</p>	<p>[details on how the gift was disposed of]</p>
<p>I confirm that, to my knowledge, accepting this offer:</p> <ul style="list-style-type: none"> <li>• does not raise an actual, potential or perceived conflict of interest for the individual or myself; <b>and</b></li> <li>• will not bring the individual, myself, the agency or the public sector into disrepute; <b>and</b></li> <li>• will provide a clear and legitimate business benefit to the agency, the public sector or the State.</li> </ul>	<p>Signature:</p> <p>Date:</p>

Send completed form to [dez.daswani@vewh.vic.gov.au](mailto:dez.daswani@vewh.vic.gov.au) (scanned as PDF)



## Appendix 2 - Privacy collection statement – gift offers

### Background

This privacy collection statement is published in accordance with the Information Privacy Principles in Schedule 1 of the Privacy and Data Protection Act 2014.

The Victorian Environmental Water Holder (VEWH) is part of the public sector. As such, it complies with a range of laws and related obligations, including:

- the *Public Administration Act 2004*;
- the *Minimum accountabilities for the management of gifts, benefits and hospitality* issued by the Victorian Public Sector Commission; and
- the *Privacy and Data Protection Act 2014*,

### Collection, retention and use of information

As part of the VEWH's compliance with its obligations and with good public sector governance practice:

1. If an individual or organisation offers a gift to a Commissioner or employee of the VEWH as a result of that person's role with the VEWH, information about the offer will be recorded, retained, and used by the VEWH.
2. Details of the information that will be recorded, retained and used by the VEWH are set out in the VEWH's policy on Gifts, Benefits and Hospitality – responding to gift offers ('gifts policy').
3. The VEWH's gifts policy is published on its external website [www.vewh.vic.gov.au](http://www.vewh.vic.gov.au)
4. As set out in its gifts policy, the VEWH publishes a 'de-identified' copy of its gifts register on its external website [www.vewh.vic.gov.au](http://www.vewh.vic.gov.au)
5. The purpose of publishing the 'de-identified' copy of the VEWH's gifts register on its external website is to:
  - promote transparency in public sector decision making; and
  - comply with the *Minimum accountabilities* for the management of gifts, benefits and hospitality.

### Viewing information

If you have offered a gift to a board member or employee of the VEWH as a result of that person's role with the VEWH you can view the information that has been recorded by contacting: **Dez Daswani** – [dez.daswani@vewh.vic.gov.au](mailto:dez.daswani@vewh.vic.gov.au)

Please note that, in accordance with the VEWH's gifts policy, whilst information on both 'reportable' and 'token' gifts (as defined in the policy) are recorded, retained and used by the VEWH:

- only information on reportable gifts is recorded in the gifts register; and
- steps have been taken to 'de-identify' personal information in the copy of the gifts register that is published on the VEWH's external website.

## Appendix 3 – Annual report to Audit committee

The CEO's annual report to the Risk and Audit Committee (RAC) must, at a minimum, include the following information:

### A. Risk analysis

#### Sources, type, and targeting of gift offers (patterns and anomalies)

Reportable gifts: an analysis of patterns and anomalies in the gifts register, including an overview of:

- (i) *Gifts offered*: the types and value range of gifts offered, in particular:
  - main sources (organisations and individuals) of high value and/or frequent offers;
  - which areas of the VEWH and which positions (chair, Commissioner, CEO, other employee positions) were subject to high value and/or frequent offers; and
  - patterns in areas identified by the RAC for high scrutiny (e.g. tendering and procurement).
- (ii) *Prohibited gifts*: the level, nature and sources of prohibited gifts offers.
- (iii) *Acceptance of gifts*: the total number, value, and percentage of gift offers accepted v. refused.
- (iv) *Use and disposal*: how the VEWH used or disposed of the gifts it received.
- (v) *Bribes*: any reports of suspected bribery attempts.

Token gifts: to the extent, if any, that the RAC requires, an analysis of token gift offers - e.g. some or all of (i) to (iii) above - in particular, prohibited token gift offers.

#### Level of compliance with policy

An overview of the estimated level of compliance with this policy, including:

- (i) Whether there are fewer entries in the gifts register than would reasonably be expected given the size and functions of the VEWH.
- (ii) Based on research conducted (e.g. surveys and focus groups with Commissioners and employees; random and targeted spot checks with current/recent suppliers and external contractors, etc.), the estimated level of failure to:
  - disclose reportable gifts by lodging a gift offer declaration form;
  - disclose token gifts by emailing the responsible person;
  - refuse prohibited gifts.

### B. Steps taken to improve compliance (risk mitigation measures)

An overview of steps taken in the last year to improve compliance with this policy, including:

- (i) substantive changes to business rules, processes and record-keeping requirements;
- (ii) activities to promote awareness of, and improve compliance with, this policy, noting who the activities were directed to (i.e. Commissioner, employees and/or external stakeholders);
- (iii) remedial action taken to address patterns of frequent or prohibited gift offers (e.g. letters to offerors); and
- (iv) progress in implementing any recommendations made to, and accepted by, the RAC and/or board.

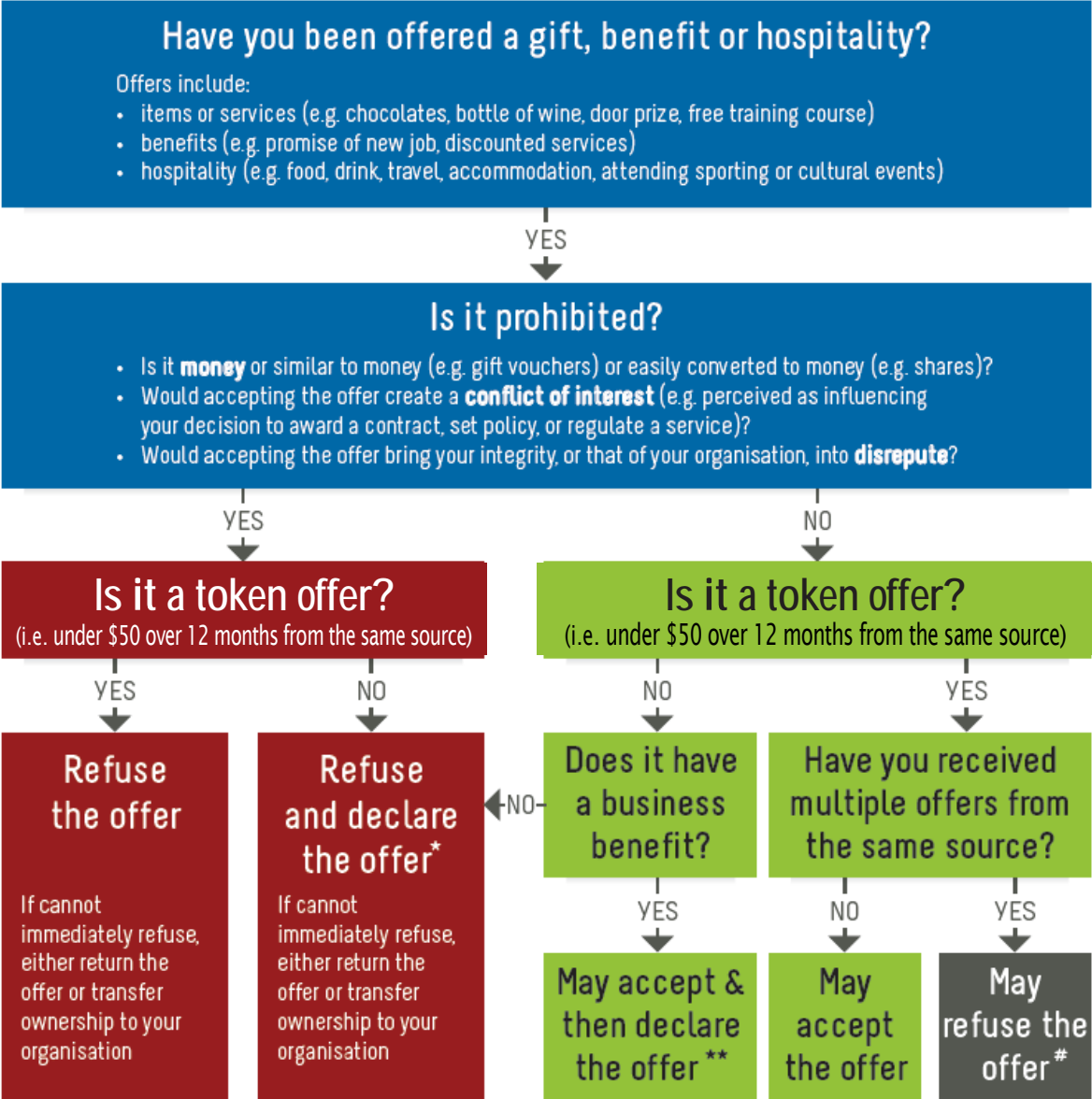
### C. Recommendations (future improvements)

New recommendations, if any, for:

- (i) improving compliance with this policy; and/or
- (ii) updating this policy and related business rules, processes and record-keeping requirements

# Appendix 4 - Flowchart on responding to gifts, benefits and hospitality

Public officials do not seek offers of gifts, benefits and hospitality.



\* Generic, bulkevent invitations that are declined (e.g. spam email offers) do not need to be declared.

\*\* Hospitality from Victorian public sector organisations do not need to be declared.

# More than one token offer may be accepted. However, care should be taken to ensure that multiple offers are not used as a device to avoid offers being recorded on the register and that the total value does not exceed \$50 over 12 months.